

REMARKS

Claims 1-37 are pending. Claims 1-15 and 24-37 are allowed. Claims 17-23 are objected to as being dependent upon a rejected base claim. Claims 17, 21, and 23 have been amended. Claim 17 has been rewritten in independent form, including all of the limitations of original claim 16, as suggested by the Examiner. Applicant expresses appreciation to the Examiner for the indication of allowed claims and allowable subject matter.

The abstract of the disclosure is objected to for using claim language and the term "the invention". In accordance with the foregoing, Applicant has corrected the abstract, thereby obviating the objection.

Claim 16 is rejected under 35 U.S.C. §102(b) as anticipated by or 35 U.S.C. §103(a) as obvious over Graham, Jr. (US 4,568,869). Pending claim 16 relates to a method for exercising a battery of an implantable medical device including "determining whether a film is disposed on a portion of an electrode of a battery; and discharging the battery a sufficient amount to reduce the film disposed on a portion of the electrode of the battery." Graham Jr. discloses a method for charging a battery with a conventional battery charger by repeatedly applying a series of short high voltage pulses followed by a long duration low voltage pulse. Graham teaches applying voltage pulses for charging a battery and does not relate to exercising a battery by "discharging the battery a sufficient amount to reduce the film disposed on a portion of the electrode of the battery." Applicant respectfully asserts that the rejection is improper and should be withdrawn.

The USPTO has submitted that "though not stated, it would have been obvious if not inherent for the user of the Graham Jr. device to have determined whether or not the batteries have collected enough resistive film in order to properly operate Graham Jr.'s recited method." Applicant respectfully disagrees. Graham Jr. makes no suggestion for determining whether a film is disposed on the battery. At col. 6, lines 18-24, Graham Jr. states "It should be noted that as the resistive film on the battery plates is reduced, more voltage can be applied to

the battery without excessive heating. However, it is most convenient to set the frequency and pulse duration and leave the[m] set during the entire charge time.” In col. 6 beginning at line 3, Graham Jr. describes factors to be considered in selecting the pulse rate and duration applied during charging, such as the effective voltage and effective current flow. The presence of a resistive film is not considered. Accordingly, the method taught by Graham may be operated using a selected pulse rate and duration for charging a battery according to a particular application without determining whether a film is disposed on the battery.

Applicant respectfully asserts that the present claims are in condition for allowance. Withdrawal of the instant rejection and issuance of a Notice of Allowance is respectfully requested. The Commissioner is authorized to charge any deficiencies and credit any overpayments to Deposit Account No. 13-2546.

Respectfully submitted,

September 19, 2006
Date

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